



19. 890-942 mc. — The April 16 Order deleted the 890-942 mc allocation to non-Government services in order to meet the Government radiopositioning requirement in this portion of the spectrum. The existing provision for ISM devices on 915 mc was retained. Non-Government fixed stations already licensed in the band were allowed to remain in the band without modification of the terms of their licenses, for the remainder of that current license period. In other words they were still required to accept such harmful interference as might be experienced from ISM on 915 mc but would be afforded protection from interference from the new service, radiopositioning, for the remainder of their current license period. Although no additional licenses are to be granted to non-Government fixed stations in the band, existing licenses may be renewed on the following conditions:

(1) Such stations must continue to accept such interference as may be experienced from ISM equipment on 915 mc;

(2) Such stations must accept such interference as may be experienced from the radiopositioning service, and

(3) Such stations must not cause harmful interference to the radiopositioning service.

20. Requests that the effect of these provisions be stayed have been received from the following: Lenkurt Electric Company; United States Independent Telephone Association (USITA); General Telephone Company of the Northwest; Florida Telephone Corp.; West Coast Telephone Company; Southwestern States Telephone Company; Peoples Telephone Corp.; North Pittsburgh Telephone Company; Northern Ohio Telephone Company; Lorain Telephone Company; Kern Mutual Telephone Company; Inter-County Telephone and Telegraph Company; General Telephone Company of Florida; General Telephone Company of Illinois; General Telephone Company of Indiana, Inc. and Budelman Electronic Corp. The Budelman petition, in addition to protesting the action taken with respect to 890-942 mc, requests specifically that the band 840-890 mc be reallocated for the exclusive use of common carrier fixed stations. Additional comments bearing on the band 890-942 mc were submitted by API and NCUR. Their comments do not request a reconsideration of the Commission's Order but direct attention to the point that the Order may have a limiting effect on the amount of spectrum space available for future expansion of private microwave systems. Each requests that this factor be given due consideration by the Commission in its deliberations in Docket No. 11866.

21. The above parties, other than NCUR and API, argue that the Commission's action works undue hardship on independent telephone companies with operations, actual or planned, in this band and has adverse national defense implications as well. Principally, they urge that the Commission stay the effective date of its Order and continue to license on these frequencies until replacement frequencies can be provided in the same region of the spectrum.

22. The Commission has determined that a grant of the relief requested would be contrary to the public interest. The Government's present obligation to protect those licensees now in the band was assumed only on the condition that no additional stations be authorized because its immediate requirements can be met if it knows now the precise locations of non-Governmental stations it must protect. The Commission has been advised that it is inconsistent with national defense to prolong the licensing of non-Government stations in the band either

REALLOCATION OF FREQUENCIES



until some fixed date in the future or until the tremendously complex general allocations problems in this region of the spectrum have been resolved. In addition, the ODCM has informed the Commission that to grant the relief requested by petitioners would seriously restrict the Government's defense functions, would create uncertainties with respect to the use of the band between now and February 1961, when present authorizations expire, and might well complicate the problem of eventual clearance of the band for the radio-positioning service.

23. While the Commission's decision to adhere to the position taken in its April 16 action is based solely on national defense considerations, it appears pertinent to make the following observations with respect to the band 890-942 mc for the information of all concerned. In this band, present licensees under the terms of their authorizations are subject to interference from ISM devices operating on 915 mc, and to that extent a calculated risk has always accompanied common carrier utilization of the band. The use of the band by Government services simply increases the likelihood of interference which common carrier representatives have already termed intolerable, [Docket 11866] but which, under the Table of Allocations and the terms of their licenses, they are required to accept. Basically, it would appear from the petitions before us that the carriers accepted the inevitability of their eventual removal from the band but seek to minimize its impact. The Commission believes that given the defense requirements here present, the congestion in this portion of the spectrum, the fact that the date on which the interference status of fixed stations in this band will change is two and a half years away, and the time which would be required to bring about any general reallocation of the type which petitioners seek, the terms of the April 16 Memorandum Opinion and Order as they affect common carriers now operating in the band are not unduly harsh or unreasonable.

24. With respect to the petition of Budelman Electronics Corporation for re-allocation of the band 840-890 mc for the exclusive use of common carrier fixed stations, this request is but one of many for spectrum space in this portion of the spectrum that have been filed with the Commission in its proceedings in Docket No. 11997. The many requests represent almost as many different services and this request on behalf of the common carrier fixed service must be considered in context with those filed on behalf of the private microwave users, the land mobile service, the air-to-ground public correspondence radio-telephone service, and others. For this reason, the Commission can not give consideration to the Budelman petition in this proceeding, but it will be considered in connection with the proceedings in Docket No. 11997.

25. 8500-9000 mc. — This band, previously shared between Government and non-Government users, is now, by the terms of the Order, an exclusively Government band except for the limited non-Government availability to 8750-8850 mc provided by a footnote to the Table to accommodate doppler radar. ^{8/} In this instance, relief from the Order is sought by ARINC/ATA, RCA, NATA, Douglas, Lockheed, Boeing, Collins, Bendix, GPL and Electrocom. In addition, petitions from Collins, ARINC/ATA and GPL request rule changes in Parts 2 and 9 of the

^{8/} "US120. In the band 8750-8850 mcs, Government and non-Government air-borne doppler radars in the aeronautical radionavigation service may be authorized temporarily until moved to a frequency band allocated to the aeronautical radionavigation service, and meanwhile must accept any harmful interference that may be experienced from the radiopositioning service."



Rules to provide continued availability of 8750-8850 mc for doppler radars on a regular basis. It is the contention of the petitioners that this band is necessary for the development of airborne self-contained doppler radar for use in civil aircraft. It is asserted that the band 8750-8850 mc was selected for the development of this type navigation equipment in March 1958 after consultation between industry, the Commission, the United States Air Force and the Interdepartment Radio Advisory Committee, 9/ and that the program was nearing the production stage when the Commission's reallocation Order was issued less than six weeks later. Conceding that there "is a certain risk" of interference, petitioners maintain that sharing the band between Government and non-Government is sound and request that this status be reinstated.

26. The ODM has advised the Commission that the relief requested by petitioners again cannot be reconciled with the national defense requirements in this area of the spectrum. The loss of any significant portion of spectrum space in the 8500-10000 mc region would make the radiopositioning service inoperative at major defense installations. Further, under the circumstances, it is the judgment of the Commission that it would not be in the public interest for two vital services, radiopositioning and aeronautical radionavigation, one involving the security of the nation and the other the safety of life, to utilize the same frequency band on a permanent basis. Because we deem the Government's requirements in this portion of the spectrum to be paramount we must adhere to our previously announced decision with respect to these frequencies.

27. Again, while the Commission's decision to adhere to the position taken in its April 16 action is based solely on national defense considerations, it appears pertinent to make the following observations with respect to the band 8500-9000 mc for the information of all concerned. It is evident that the problem of the aviation industry with respect to the band 8750-8850 mc is not the lack of provision for licensing of doppler radars in the band but rather the uncertainties imposed on the industry by the provisions of footnote US120 which is applied to the band 8500-9000 mc. This footnote does, in fact, provide for licensing at 8000 mc but imposes two conditions, both of which are understandably sources of concern to the aviation industry. These conditions are (1) that the dopplers must accept such interference as may be experienced from the radiopositioning service, and (2) that the licensing availability is temporary until doppler radars are moved to a frequency band allocated to the aeronautical radionavigation service.

28. As to the first condition (that interference must be accepted by the doppler radars) the Commission is, of course, anxious to obtain all possible facts as to the degree and amount of any interference that might occur. However, should we eventually learn that it is unlikely that interference will occur, the aviation industry should not then be reluctant to accept this condition. It is pertinent to note, however, inasmuch as the sharing involved is between two vital services, that an interference potential exists so long as sharing continues.

29. If, on the other hand, we eventually learn that interference is likely to occur, the interference condition provision in US120 becomes most pertinent, and the reason for retaining it is self-evident.

9/ Significantly petitioners do not contend that they were urged or encouraged to pursue the development of 8800 mc doppler radar during these consultations.

REALLOCATION OF FREQUENCIES



30. To summarize on this point of interference — be there grave risk or little risk of its occurrence — the interference condition in US120 is considered necessary and pertinent to the sharing so long as sharing is to be permitted. Its retention becomes particularly valid with the realization that test results today will not necessarily be indicative of future situations involving different types of dopplers and radiopositioning devices, which would have greater interference potentialities.

31. Turning now to the second condition, i.e., the provision that doppler radars in the aeronautical radionavigation service may be authorized temporarily until moved to a frequency band allocated to the aeronautical radionavigation service — it is emphasized that this portion of US120 is predicated on the fundamental allocation premise regarding the undesirability of sharing vital national defense and airborne safety functions in the same frequency band. Such sharing is obviously undesirable in any portion of the radio spectrum but in this particular band it is unnecessary on any permanent basis in view of the provision of an exclusive allocation to self-contained aids at 13000 mc.

32. The stated national defense requirement is for an exclusive allocation for radiopositioning in the band 8500-9000 mc which includes the band 8750-8850 mc wherein a limited number of doppler radars are licensed. Because of the impact upon the aviation industry that would have resulted from an ordered immediate clearance of dopplers from this band, practicality dictated that a temporary provision be made for dopplers to meet the aviation requirement for a self-contained aid. As to the licensing policy which will be followed with respect to existing dopplers now licensed at 8800 mc, as well as dopplers which may in the future be licensed under the terms of US120 the Commission wishes to emphasize that there will be no discontinuance of licensing availability in this band for airborne doppler equipments as long as US120 remains in the Rules. The Commission anticipates that the regular licensing of dopplers at 8800 mc will continue until the Commission finds the state of the art permits the transition to the 13000 mc band and until such time as the Commission finds equipment can be made available in that band. At such time as the present licensing policy under US120 is modified, the Commission will, to the greatest extent possible, endeavor to provide a reasonable amortization period. This policy will be followed because, at the time of the April 16 Order, the Commission had already licensed airborne dopplers at 8800 mc in accordance with the provisions of its Rules and there was no licensing availability in the Rules for 13000 mc doppler equipment. The Commission has today modified its Rules so as to permit the licensing of 13000 mc dopplers. The Commission expects the aviation industry will make diligent efforts to exploit the 13000 mc allocation for airborne doppler equipments.

33. To summarize our overall position in this proceeding, it was recognized at the time the Memorandum Opinion and Order was adopted that the reallocation of the frequencies here involved would cause inconvenience and some hardship to segments of the industry, and this the Commission has endeavored to minimize. Nevertheless, it remains our conviction that the public interest requires adherence to the Rule changes promulgated by the Order of April 16. This action was taken on the basis of representations made relative to the performance of functions vital to the national defense. In our opinion the pleadings before us contain nothing which would justify altering any of the provisions of the April 16 Memorandum Opinion and Order. Moreover, the ODCM has informed the Commission that the granting of the requests in the various petitions for reconsideration would have a serious adverse effect on national defense capabilities. The public



REPORTS OF THE COMMISSION

interest, therefore, requires that the several requests for reconsideration, hearing, stay and/or reallocation be denied.

34. Accordingly, in view of the foregoing, it is ordered, that the above-mentioned petitions requesting hearing, reconsideration, and/or stay of various portions of the Commission's Memorandum Opinion and Order of April 16, 1958, are denied; and

35. It is further ordered, that the petitions for amendment of regulations filed on May 15, 1958, by Collins Radio Company; on May 19, 1958, by ARINC/ATA; and on July 3, 1958, by General Precision Laboratory are denied; and

36. It is further ordered, that the Bendix Aircraft Corporation petition filed herein under §5.253 of the Rules is denied and the application associated therewith is dismissed: and

37. It is further ordered, that the ARINC/ATA petition to dismiss the Ryan pleading herein is denied.

Adopted: July 30, 1958

Released: July 31, 1958



WQXR-FM: all of which comments were in favor of the Commission's proposal; that, in addition, The Commercial Radio Equipment Company and the Interstate Broadcasting Company, Inc. suggested the revision of §§ 3.202 and 3.204 to remove the present limitation of the coverage of Class B FM stations located in the heavy populated part of New England, the southeastern portion of New York, New Jersey, Delaware, and the eastern portions of Pennsylvania and Maryland, to not more than the equivalent of 20 kilowatts effective radiated power and antenna height of 500 feet above average terrain; but that these suggestions to amend §§ 3.202 and 3.204, more properly, should be the subject of a separate rule making proceeding; and

It further appearing that no comments in reply to the original comments were filed within the 10-day period after July 7, 1958; and

It further appearing that adoption of the proposal can be expected to expedite the processing of applications for FM facilities; and

It further appearing that authority for the adoption of the proposed amendments is contained in sections 4 (i), 301, 303 (c), (d), (f), and (r), and 307 (b) of the Communications Act of 1934, as amended;

It is ordered, That effective August 20, 1958, the Revised Tentative Allocation Plan for Class B FM Broadcast Stations is abandoned and §§ 1.356 (f) and 1.309 (a) are amended by deleting the present provisions of these two sections and substituting the following:

§ 1.356 *Processing of FM and non-commercial educational FM broadcast applications.* . . .

(f) If, upon examination, the Commission finds that the public interest, convenience and necessity will be served by the granting of an application for FM broadcast facilities (Class A, Class B or noncommercial educational), the same will be granted. If, on the other hand, the Commission is unable to make such a finding and it appears that a hearing may be required, the procedure set forth in § 1.362 will be followed.

§ 1.309 *Repetitious applications.* (a) Where the Commission has denied an application for a new station or for any modification of services or facilities, or dismissed such application with prejudice, no like application involving service of the same kind to substantially the same area by substantially the same applicant, or his successor or assignee, or on behalf or for the benefit of the original parties in interest, may be filed within 12 months from the effective date of the Commission's action: *Provided, however,* That applicants whose applications have been denied in a comparative hearing for a particular television facility allocated in the television allocation table, may immediately reapply for another available television channel.

(Sec. 4, 48 Stat. 1086, as amended; 47 U. S. C. 154. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, 1083; 47 U. S. C. 301, 303, 307).

Released: August 5, 1958.

FEDERAL COMMUNICATIONS
COMMISSION;

[SEAL] GORDON J. KENT,
Acting Secretary.

[F. R. Doc. 58-6382; Filed, Aug. 8, 1958;
8:47 a. m.]

[Docket No. 12404; FCC 58-750]

[Rules Amdt. 2-24, 9-20]

PART 2—FREQUENCY ALLOCATIONS AND
RADIO TREATY MATTERS; GENERAL
RULES AND REGULATIONS

PART 9—AVIATION SERVICES

MISCELLANEOUS AMENDMENTS

1. On April 16, 1958, the Commission adopted a notice of proposed rule making in the above entitled matter which was released on April 18, 1958, and published in the Federal Register on April 23, 1958 (23 F. R. 2698). An errata correcting certain minor errors and omissions in the notice was released on May 1, 1958, and published in the Federal Register on May 6, 1958 (23 F. R. 3022).

2. The period for filing comments in this matter expired on July 16, 1958. No comments were timely received with respect to the Commission's proposal to reallocate the band 13,250-13,400 Mc for exclusive use of airborne radionavigation devices employing the doppler technique by both Government and non-Government stations. This band is presently allocated for exclusive Government use and no existing non-Government station will be adversely affected by such a reallocation. The Commission has now

decided to implement this portion of its proposed rule making in this matter by appropriate amendment to Part 2 of the rules, as shown in the attached Appendix, in order that the non-Government aeronautical radionavigation service may benefit therefrom as soon as possible.

3. Purely as a consequence of this action, Part 9 is also being amended to reflect in this portion of the rules the availability of these frequencies to stations in the aeronautical radionavigation service for airborne doppler radar use. Since the only purpose and effect of this amendment is to achieve consistency in the rules, the Commission finds that notice and public procedure under section 4 of the Administrative Procedure Act are unnecessary.

4. The remaining proposals in Docket 12404 will be dealt with at a later date.

5. In view of the foregoing, it is ordered, pursuant to the authority of section 303 (c), (f) and (r) of the Communications Act of 1934, as amended, that effective September 2, 1958, Part 2 of the Commission's rules, Frequency Allocations and Radio Treaty Matters; General Rules and Regulations, and Part 9—Aviation Services, are amended as set forth below.

(Sec. 4, 48 Stat. 1086, as amended; 47 U. S. C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

Adopted: July 30, 1958.

Released: July 31, 1958.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] GORDON J. KENT,
Acting Secretary.

1. In the table of frequency allocations in § 2.104 (a) (5), change the entries in the band 13250-16000 Mc in columns 5 through 11 to read as follows:

Band Mc	Allo- cation	Band Mc	Service	Class of station	Fre- quency	Nature	OF SERVICES of stations
5	6	7	8	9	10		11
13250- 13400	G, NQ	13250- 13400	Aeronautical radionavi- gation.	Radionavigation mobile.			Airborne doppler radar.
13400- 16000	G						

[Rules Amdt. 2-25]

[Docket No. 11959; FCC 58-798]

PART 2—FREQUENCY ALLOCATIONS AND
RADIO TREATY MATTERS; GENERAL
RULES AND REGULATIONS

1. On April 3, 1957, the Commission adopted a notice of proposed rule making in the above entitled matter which was released on April 9, 1957, and published in the Federal Register of April 16, 1957 (22 F. R. 2583). A correction to the Notice adding footnote designators to certain specified frequency bands was released on April 11, 1957, and pub-

¹ Subsequent to the final filing date, comments supporting the action here taken were received from Raytheon Manufacturing Co. and Ryan Aeronautical Co. Reply comments filed on July 28, 1958, by Aeronautical Radio also give qualified support to the action.